

REMARKS

In an office action mailed February 25, 2003 (paper no. 18), claims 1 through 20 were rejected under 35 U.S.C. 112 as containing subject matter which was not described in the specification in such a way as to as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and or use the invention. In particular, it is alleged that the specification does not contain an enabling disclosure of what the coating is, and that specific examples of what types of coatings are contemplated are lacking from the disclosure and that thus the specification is non-enabling. Claims 1, 4, 5, 6, 7, 9, 10, 13, 14, 16, 18, and 20 stand rejected under 35 U.S.C. 102(b) as being anticipated by the IEEE article to Ellam, which is alleged to disclose "dielectric materials [that] read upon the coating claimed." These rejections are respectfully traversed.

Rejections Under 35 U.S.C. 112

Claims 1 through 20 were rejected under 35 U.S.C. 112 as containing subject matter which was not described in the specification in such a way as to as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and or use the invention. In particular, it is alleged that the specification does not contain an enabling disclosure of what the coating is, and that specific examples of what types of coatings are contemplated are lacking from the disclosure and that thus the specification is non-enabling. This rejection is respectfully traversed.

The Examiner has failed to provide a prima facie basis for the rejection of claims 1 through 20 under 35 U.S.C. 112 by his own admission. In a decision reversing a holding of the Board of Patent Appeals and Interferences in which a rejection under 35 U.S.C. 112, first

paragraph, was upheld by the Board, the Federal Circuit stated that a “patent need not disclose what is well known in the art.” *In re Wands*, 858 F. 2d 731, 735 (Fed. Circ. 1988). *See also Spectra-Physics v. Coherent*, 827 F.2d 1524, 1534 (“A patent need not teach, *and preferably omits*, what is well known in the art.”) (*Emphasis added*). Claims 1, 4, 5, 6, 7, 9, 10, 13, 14, 16, 18, and 20 stand rejected under 35 U.S.C. 102(b) as being anticipated by the IEEE article to Ellam, which is alleged by the Examiner to disclose “dielectric materials [that] read upon the coating claimed.” Thus, by the Examiner’s own admission, the cited prior art teaches that such coatings are well known. The Federal Circuit has clearly stated that it is *preferable to omit* specific examples of what types of coatings are contemplated from the disclosure where such coatings are well known in the art. Likewise, the other cited art of record also discloses such coatings, *see, e.g.*, “Design of Lightweight, Broadband Microwave Absorbers Using Genetic Algorithms,” *Michielssen et al.*, IEEE Transactions on Microwave Theory and Techniques, Vol. 41, no. 67 June/July 1993 (“This paper focuses on the design of wide-band, multi-layered radar absorbing (RAM) coatings.”) Withdrawal of this rejection is respectfully requested. Likewise, if the Examiner remains unconvinced that specific examples of what types of coatings are contemplated from the disclosure are well known in the art, a telephone conference is hereby requested, at which additional evidence of the well-known nature of such coatings shall be provided to the Examiner from the prior art of record and from such additional prior art as may be necessary to satisfy the Examiner, or to clarify exactly why the Examiner believes that the prior art fails to disclose examples of what types of coatings are contemplated from the disclosure.

Rejections under 35 U.S.C. 102

Claims 1, 4, 5, 6, 7, 9, 10, 13, 14, 16, 18, and 20 stand rejected under 35 U.S.C. 102(b) as being anticipated by the IEEE article to Ellam, which is alleged to disclose “a layer having a surface and a coating that covers a portion of the layer.” These rejections are respectfully
5 traversed.

Ellam fails to disclose each element of the invention of claims 1, 4, 5, 6, 7, 9, 10, 13, 14, 16, 18, and 20, and therefore fails to provide a basis for rejection of the claims under 35 U.S.C. 102(b). In particular, claim 1 includes “A matching network hybrid electro-magnetic
10 compatibility absorber to provide improved radio frequency absorbing performance in a frequency range of approximately 20 MHz to approximately 500 MHz, comprising: a big element; a small element that is located beneath the big element; the big element comprises a big element surface; the small element comprises a small element surface; a big element coating that covers a predetermined portion of the big element surface; and a small element coating that
15 covers a predetermined portion of the small element surface.” Figure 3 of *Ellam* discloses “a pyramidal section with a multilayered base. . . . one of which is the ferrite material.” If the ferrite tiles read upon the “layer surface claimed” and the dielectric materials “read upon the coating claimed,” as alleged, then where is 1) the big element, 2) the small element that is located beneath the big element, 3) the big element coating that covers a predetermined portion of the big
20 element surface, and 4) the small element coating that covers a predetermined portion of the small element surface? Applicants respectfully request that the Examiner identify each of the claim elements that are allegedly disclosed by *Ellam* – there appears to be insufficient detail to even speculate what could be a “big element,” the “small element that is located beneath the big

element,” the “big element coating that covers a predetermined portion of the big element surface,” and “the small element coating that covers a predetermined portion of the small element surface.” The vague characterization of *Ellam* provided by the Examiner fails to provide any guidance on what is allegedly disclosed that anticipates claim 1.

5 Amended claim 9 includes a “matching network hybrid electro-magnetic compatibility absorber to provide improved radio frequency absorbing performance in a frequency range of approximately 20 MHz to approximately 500 MHz, comprising: a layer comprising a surface; and a coating that covers a predetermined portion of the surface that is less than the entire surface.” *Ellam* fails to disclose a coating that covers a predetermined portion of the surface that
10 is less than the entire surface. Likewise, amended claim 16 includes a “matching network hybrid electro-magnetic compatibility absorber, comprising: an absorber comprising a surface having a coating; the coating having a coating shape wherein the coating shape is varied as a design parameter to permit absorption of radio frequency energy in a frequency range extending from approximately 500 MHz to approximately 40 GHz.” *Ellam* fails to disclose a coating shape
15 wherein the coating shape is varied as a design parameter.

Claims 4 through 8 depend from claim 1, and are allowable for at least the reasons that they depend from an allowable base claim and add limitations not found in the prior art. Claims 10 through 14 depend from claim 9 and are allowable for at least the reasons that they depend from an allowable base claim and add limitations not found in the prior art. Claims 17, 19, and
20 20 depend from claim 16 and are allowable for at least the reasons that they depend from an allowable base claim and add limitations not found in the prior art. Withdrawal of the rejections and allowance of all pending claims is respectfully requested.

CONCLUSION

In view of the foregoing remarks and for various other reasons, Applicants submit that claims 1 through 14, 16, 17, 19, and 20 are allowable and a Notice of Allowance is courteously solicited. If any impediment to the allowance of these claims remains after entry of this

5 Response and Amendment, a telephone interview with the Examiner is hereby requested by the undersigned so that such issues may be resolved as expeditiously as possible.

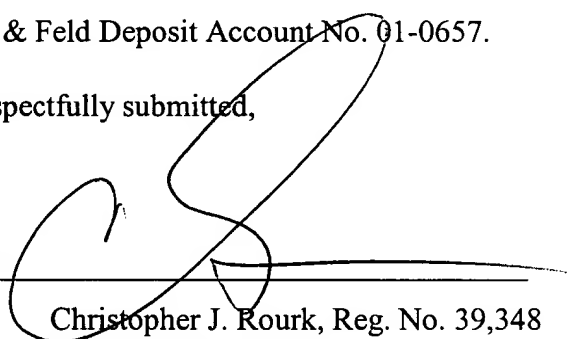
A no-fee response to the Office Action mailed February 25, 2003 (paper no. 18) was due May 25, 2003, which fell on a Sunday. Monday, May 26 was Memorial Day, a federal holiday. Therefore, this response is timely submitted today, May 27, 2003. No fees are believed due at
10 this time. However, should any fees be deemed owing, please deduct these fees or credit any overpayment to the Akin, Gump, Strauss, Hauer & Feld Deposit Account No. 01-0657.

Respectfully submitted,

Date:

5/29/03

By:


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